

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

GERALD NOVAK and ADAM WENZEL,

Plaintiffs,

Case No. 1:21-cv-12008

v.

Honorable Thomas L. Ludington  
United States District Judge

SHERIFF WILLIAM L. FEDERSPIEL,

Defendant.

/

**ORDER LIFTING STAY AND DIRECTING NOTIFICATION**

The above-captioned case was stayed, and certified questions were submitted to the Michigan Supreme Court. Then Plaintiffs filed three appeals. However, the Michigan Supreme Court has declined the certification request. So the stay will be lifted, and the Sixth Circuit Court of Appeals will be notified.

On November 23, 2022, due to a potentially dispositive interpretation of Michigan's forfeiture statutes, the case was stayed until "further order of this Court" or "the disposition of *Novak v. Saginaw County Sheriff's Office*, No. 21-045333-AV (Mich. Cir. Ct. Saginaw Cnty. filed Sept. 3, 2021)" so that the parties could certify questions of Michigan's forfeiture statutes to the Michigan Supreme Court. *Novak v. Federspiel*, No. 1:21-CV-12008, 2022 WL 17176832 (E.D. Mich.), *recons. denied*, 2022 WL 17415116 (E.D. Mich.), *and relief from j. denied*, 2022 WL 17616430 (E.D. Mich. 2022). Plaintiffs appealed, depriving this Court of its jurisdiction over the motion for summary judgment. *See* ECF Nos. 42; 45; 46.

As the Sixth Circuit noted, however, "[t]he state circuit court's decision in that case was issued on December 15, 2022, after Plaintiffs moved [the Sixth Circuit] to stay the certification ruling." *Novak v. Federspiel*, No. 22-2088, 22-2104 (6th Cir. Dec. 22, 2022), ECF No. 20-1 at 3

n.2. The parties notified this Court of the state circuit court's decision five days later, and this Court lifted the stay in a Text-Only Order. *See* ECF No. 50.

On January 27, 2023, the parties were directed to submit the completed paperwork to the Michigan Supreme Court for certification, ECF No. 68, and a new stay was entered by a Text-Only Order for that purpose, which is still in effect and has not been contested in any way.

On May 24, 2023, the Michigan Supreme Court "respectfully decline[d] the request to answer the certified questions." ECF No. 74-1 at PageID.2609; *accord In re Certified Questions (Novak v. Federspiel)*, No. 165282 2023 WL 3641178, at \*1 (Mich. May 24, 2023).

Because the certification for which the case was stayed has been declined, the stay will be lifted, and the Clerk of the Court will be directed to submit this Order to the Sixth Circuit Court of Appeals regarding case numbers 22-2088, 22-2104, and 23-1024 on or before May 31, 2023.

Once the three appeals are resolved, this Court may continue to adjudicate the case on its merits based on the motions and briefs currently pending in the case.

Accordingly, it is **ORDERED** that the Stay entered by text-only order on January 27, 2023, is **LIFTED**.

Further, it is **ORDERED** that the Clerk of the Court is **DIRECTED** to send this Order to the Sixth Circuit Court of Appeals clerks assigned to case numbers 22-2088, 22-2104, and 23-1024 **on or before May 31, 2023**.

**This is not a final order and does not close the above-captioned case.**

Dated: May 30, 2023

s/Thomas L. Ludington  
THOMAS L. LUDINGTON  
United States District Judge